

SENATE BILL NO. 115

INTRODUCED BY T. FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING ANIMAL WELFARE HEARINGS AND REQUIRING THAT CERTAIN COSTS OF AN ANIMAL'S CARE BE PAID; REVISING HOW A PETITION FOR AN ANIMAL WELFARE HEARING MUST BE FILED AND WHAT IT MUST INCLUDE; ALLOWING A COURT TO DETERMINE PLACEMENT OF AN ANIMAL CONSIDERING CERTAIN FACTORS; PROVIDING A PROCESS FOR A COURT TO REQUIRE POSTING OF A BOND TO PAY FOR EXPENSES INCURRED IN CARING FOR AN ANIMAL; REQUIRING THAT AN ANIMAL BE FORFEITED UNDER CERTAIN CIRCUMSTANCES; REQUIRING POSTING OF A BOND FOR AN ANIMAL'S CARE PENDING RESOLUTION OF A CIVIL PROCEEDING; AND AMENDING SECTION 27-1-434, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-434, MCA, is amended to read:

"27-1-434. Animal welfare hearing -- cost of animal care. (1) When an animal is seized from a person by a law enforcement officer pursuant to an arrest for upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217, the prosecutor may file

a petition for an animal welfare hearing in district court in the county where the arrest seizure was made.

(2) The petition must contain:

(a) authority and purpose of the seizure, including the time, place, and circumstances of the seizure and the purported facts regarding any animal neglect cruelty and the current condition of the animal;

(b) a description of the animal, including its current condition and any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and

(c) the name and address of the respondent. If the name and address of the respondent are not available to the prosecutor after reasonable investigation, the petition must contain the address of the premises where the

animal was seized.

(3) The prosecutor shall serve a true and correct copy of the petition upon the respondent. If the name and address of the respondent are not available after reasonable investigation, the petition must be conspicuously posted at the premises where the animal was seized.

(3)(4) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, Upon

1 receipt of the petition, the court shall set the matter for hearing not more than 40 21 days after the petition was
 2 filed with the clerk of court. ~~Otherwise, the court shall set the matter for hearing not more than 30 days after the~~
 3 ~~petition was filed~~ The court shall, no fewer than 5 days before the hearing, notify the respondent in writing of the
 4 date and location of the hearing. If the name and address of the respondent are not available and have not been
 5 included in the petition, the notice must be conspicuously posted at the premises where the animal was seized.

6 (4) At the hearing, the court may consider the following factors:

7 ~~_____ (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;~~
 8 ~~_____ (b) the extent of the animal's disease, injury, or suffering, if applicable;~~
 9 ~~_____ (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available~~
 10 ~~veterinary testimony; and~~

11 ~~_____ (d) the availability of funding to provide for the animal's treatment, shelter, and care.~~

12 ~~_____ (5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:~~

13 ~~_____ (a) immediate release of the animal to the owner;~~

14 ~~_____ (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum~~
 15 ~~of 30 days from the date of seizure;~~

16 ~~_____ (c) euthanization of severely diseased, injured, or suffering animals; or~~

17 ~~_____ (d) retention of the animal in a humane animal treatment shelter.~~

18 ~~_____ (6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed~~
 19 ~~under 45-8-211 or 45-8-217.~~

20 ~~(5) At the hearing, the court shall consider the extent of the animal's disease, injury, or suffering and shall~~ *no more*
 21 ~~determine whether the animal will be:~~ *than 5 days after the hearing*

22 ~~_____ (a) subject to subsection (6), released to the respondent;~~

23 ~~_____ (b) held and cared for by the county or an animal shelter designated by the county, pending disposition~~
 24 ~~of the criminal proceeding; or~~ *initiated for an alleged violation of 45-8-210, 45-8-211, or 45-8-217*

25 ~~_____ (c) subject to subsection (7), euthanized.~~

26 ~~_____ (6) (a) When determining whether the animal should be released to the respondent, the court shall~~
 27 ~~consider all of the circumstances that resulted in the animal's seizure, the propriety of releasing the animal to the~~
 28 ~~respondent given the alleged facts regarding abuse or neglect, and whether the respondent is able and willing~~
 29 ~~to provide necessary care for the animal.~~

30 ~~_____ (b) Before an animal may be released to the respondent, the respondent shall pay the actual costs of~~

- (4) 1 caring for the animal during the period subsequent to the seizure *if the court finds the seizure was justified*
 2 (7) When determining whether the animal will be euthanized, the court shall consider the likelihood of
 3 viable treatment for the animal.
- (5) 4 *finds by a preponderance of the evidence submitted*
 5 (8) (a) If the court determines that the respondent is not able or not willing to provide necessary care for
 6 the animal or determines that the animal was subjected to cruelty or forced fighting, the court may not release
 7 the animal to the respondent and shall set a renewable bond in an amount sufficient to cover the reasonable
 8 expenses expected to be incurred in caring for the animal for a period of 30 days, subject to the provisions of
 9 subsection (9).
- (6) 10 (b) In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances
 11 of the seizure, including the need to care for the animal pending disposition of the criminal proceeding, the
 12 recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The
 13 respondent's ability to pay may not affect the court's determination.
- 14 (c) For the purposes of this section, "reasonable expenses" means the cost of providing care, including
 15 but not limited to food, water, shelter, and veterinary care or necessary medical care, to an animal.
Upon an order of the Court that a bond be posted
 16 (9) If the court orders a bond to be posted, the amount of funds necessary for 30 days of the animal's
 17 care must be posted with the court. Unless the amount is adjusted pursuant to a hearing held as provided in
 18 subsection (10), the court shall order the respondent to deposit the same amount every 30 days until final
 19 disposition of the criminal proceeding.
- 20 (10) The respondent may request a hearing no fewer than 5 days before the expiration of the 30-day
 21 period, and the court may, upon a motion by a respondent, adjust the amount of reasonable expenses to be
 22 provided by the respondent.
- 23 (11) If the required funds are not deposited within 5 days of the issuance of the order setting the amount
 24 as provided in subsection (8) or 5 days after the expiration of the 30-day period, the ownership of the animal is
 25 forfeited to the county.
- 26 (12) Once a security deposit or bond has been posted in accordance with this section, the entity caring
 27 for the animal may draw from the security deposit or bond the actual costs incurred in caring for the animal from
 28 the date of the seizure to the date of the final disposition of the criminal proceeding.
- 29 (13) Upon final disposition of the criminal proceeding, any remaining funds deposited with the court must
 30 be returned to the depositor.
- 31 (14) Notwithstanding any other provision of this section, an animal seized from a person for an alleged

1 violation of 45-8-210, 45-8-211, or 45-8-217 may immediately be euthanized if, in the written determination of a
2 licensed veterinarian or officer of the animal shelter or animal welfare agency responsible for caring for the animal
3 after the seizure, the animal is:

4 (a) experiencing substantial pain or suffering; or

5 (b) substantially injured or diseased and not likely to recover."

6 (15) Any testimony of the respondent in a hearing as provided in this section may
7 not be used against the respondent in the criminal proceeding

8 NEW SECTION. Section 2. Care of animal in civil cases -- bond required. (1) When an animal is
9 placed in a shelter operated by a county pending resolution of a civil proceeding, the court shall order imposition
10 of a bond or security to reimburse the county for reasonable expenses incurred in caring for the animal from the
11 time that it was placed in the shelter until the animal is returned to its owner or removed from the county shelter.

12 (2) For the purposes of this section, "reasonable expenses" means the cost of providing care, including
13 but not limited to food, water, shelter, and veterinary care or necessary medical care, to an animal.

14 NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an
15 integral part of Title 27, chapter 1, part 4, and the provisions of Title 27, chapter 1, part 4, apply to [section 2].

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